

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH MONTALDO,

Plaintiff,

-against-

ORDER

21-CV-1272 (JMA) (ARL)

THE COUNTY OF SUFFOLK,

Defendant.

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LINDSAY, Magistrate Judge:

Before the Court is the motion of Steven J. Moser ("Moser"), counsel for the plaintiff, Joseph Montaldo ("Montaldo"), seeking leave to withdraw as his attorney of record. The motion was served on the Montaldo and counsel for the defendant but no one has filed a response to the motion. Nonetheless, Moser has not demonstrated a legal justification for the withdrawal and, thus, the motion is denied with leave to renew.

Rule 1.4 provides that:

An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by the order. Such an order may be granted only upon a showing by affidavit of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar.

See Local Civil Rule 1.4 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York. The court must consider two factors when deciding a motion to withdraw (1) "the reasons for withdrawal" and (2) "the impact of the withdrawal on the timing of the proceeding." *Estate of Larry Shaw & Susan Shaw v. Marcus*, No. 7:14-CV-3849 (NSR), 2016 U.S. Dist. LEXIS 120742, 2016 WL 4679734, at *1 (S.D.N.Y. Sept. 6, 2016) (quoting *Blue Angel Films, Ltd. v. First Look Studios, Inc.*, No. 08-CV-6469 (DAB) (JCF), 2011

U.S. Dist. LEXIS 16674, 2011 WL 672245, at *1 (S.D.N.Y. Feb. 17, 2011)). Moser does not indicate his reason for seeking to withdraw. Nor does he discuss the timing of his withdrawal in the application. Instead, Moser seeks leave to file an affidavit under seal and indicates that he would like to reserve the right to seek legal fees under the fee shifting statute should the plaintiff prevail. Should Moser renew the motion, he may attach an affidavit following the Steps for E-filing Sealed Documents found on the Court's website.

Moser is directed to serve a copy of this order on Montaldo immediately upon receipt.

Dated: Central Islip, New York
December 14, 2021

SO ORDERED:

/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge